

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

See attached Rider A

DEFENDANTS

See attached Rider B

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Stull, Stull & Brody
6 East 45th Street, Suite 500
New York, NY 10017 (Telephone: 212-687-7230)

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Section 1331(a)(1). Stockholder suit alleging breach of fiduciary duty, negligence and breach of contract

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☐ Yes ☒ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 367 HEALTHCARE/	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 375 FALSE CLAIMS
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	PHARMACEUTICAL PERSONAL	INJURY/PRODUCT LIABILITY	28 USC 158	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 130 MILLER ACT	LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	SEIZURE OF PROPERTY	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	21 USC 881	28 USC 157	<input type="checkbox"/> 430 BANKS & BANKING
	SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL	<input type="checkbox"/> 690 OTHER		<input type="checkbox"/> 450 COMMERCE
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 330 FEDERAL	INJURY PRODUCT		PROPERTY RIGHTS	<input type="checkbox"/> 460 DEPORTATION
OVERPAYMENT &	EMPLOYERS'	LIABILITY		<input type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> 470 RACKETEER INFLU-
ENFORCEMENT	LIABILITY			<input type="checkbox"/> 830 PATENT	ENCED & CORRUPT
OF JUDGMENT	<input type="checkbox"/> 340 MARINE	PERSONAL PROPERTY		<input type="checkbox"/> 840 TRADEMARK	ORGANIZATION ACT
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT	<input type="checkbox"/> 370 OTHER FRAUD			(RICO)
<input type="checkbox"/> 152 RECOVERY OF	LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING			<input type="checkbox"/> 480 CONSUMER CREDIT
DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE			SOCIAL SECURITY	<input type="checkbox"/> 490 CABLE/SATELLITE TV
STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE			<input type="checkbox"/> 851 HIA (1395ff)	<input type="checkbox"/> 850 SECURITIES/
(EXCL VETERANS)	PRODUCT LIABILITY	<input type="checkbox"/> 380 OTHER PERSONAL	LABOR	<input type="checkbox"/> 862 BLACK LUNG (923)	COMMODITIES/
<input type="checkbox"/> 153 RECOVERY OF	<input type="checkbox"/> 360 OTHER PERSONAL	PROPERTY DAMAGE	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	EXCHANGE
OVERPAYMENT	INJURY	<input type="checkbox"/> 385 PROPERTY DAMAGE	STANDARDS ACT	<input type="checkbox"/> 864 SSID TITLE XVI	
OF VETERAN'S	<input type="checkbox"/> 362 PERSONAL INJURY -	PRODUCT LIABILITY	<input type="checkbox"/> 720 LABOR/MGMT	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 OTHER STATUTORY
BENEFITS	MED MALPRACTICE		RELATIONS		ACTIONS
<input checked="" type="checkbox"/> 160 STOCKHOLDERS		PRISONER PETITIONS	<input type="checkbox"/> 740 RAILWAY LABOR ACT	FEDERAL TAX SUITS	<input type="checkbox"/> 891 AGRICULTURAL ACTS
SUITS		<input type="checkbox"/> 463 ALIEN DETAINEE	<input type="checkbox"/> 751 FAMILY MEDICAL	<input type="checkbox"/> 870 TAXES (U.S. Plaintiff or	
<input type="checkbox"/> 190 OTHER	ACTIONS UNDER STATUTES	<input type="checkbox"/> 510 MOTIONS TO	LEAVE ACT (FMLA)	Defendant)	<input type="checkbox"/> 893 ENVIRONMENTAL
CONTRACT	CIVIL RIGHTS	VACATE SENTENCE	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 871 IRS-THIRD PARTY	MATTERS
CONTRACT	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS	28 USC 2255	LITIGATION	26 USC 7609	<input type="checkbox"/> 895 FREEDOM OF
PRODUCT	(Non-Prisoner)	<input type="checkbox"/> 530 HABEAS CORPUS	<input type="checkbox"/> 791 EMPL RET INC		INFORMATION ACT
LIABILITY	<input type="checkbox"/> 441 VOTING	<input type="checkbox"/> 535 DEATH PENALTY	SECURITY ACT (ERISA)		<input type="checkbox"/> 896 ARBITRATION
<input type="checkbox"/> 196 FRANCHISE	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 540 MANDAMUS & OTHER			<input type="checkbox"/> 899 ADMINISTRATIVE
	<input type="checkbox"/> 443 HOUSING/		IMMIGRATION		PROCEDURE ACT/REVIEW OR
REAL PROPERTY	ACCOMMODATIONS	PRISONER CIVIL RIGHTS	<input type="checkbox"/> 462 NATURALIZATION		APPEAL OF AGENCY DECISION
<input type="checkbox"/> 210 LAND	<input type="checkbox"/> 445 AMERICANS WITH	<input type="checkbox"/> 550 CIVIL RIGHTS	APPLICATION		<input type="checkbox"/> 950 CONSTITUTIONALITY OF
CONDEMNATION	DISABILITIES -	<input type="checkbox"/> 555 PRISON CONDITION	<input type="checkbox"/> 465 OTHER IMMIGRATION		STATE STATUTES
<input type="checkbox"/> 220 FORECLOSURE	EMPLOYMENT	<input type="checkbox"/> 560 CIVIL DETAINEE	ACTIONS		
<input type="checkbox"/> 230 RENT LEASE &	<input type="checkbox"/> 446 AMERICANS WITH	CONDITIONS OF CONFINEMENT			
EJECTMENT	DISABILITIES -OTHER				
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> 448 EDUCATION				
<input type="checkbox"/> 245 TORT PRODUCT					
LIABILITY					
<input type="checkbox"/> 290 ALL OTHER					
REAL PROPERTY					

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE Alvin K. Hellerstein DOCKET NUMBER 1:15-cv-06043

Check YES only if demanded in complaint
JURY DEMAND: ☒ YES ☐ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ a. all parties represented ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☒ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[] 1	[] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[] 3	[] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[] 5	[X] 5
CITIZEN OF ANOTHER STATE	[X] 2	[] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4	[] 4	FOREIGN NATION	[] 6	[] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Fran Kosky
22681 Islamare Lane
Lake Forest, CA 92630
Orange County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

See attached Rider C for a full listing of defendants' addresses & counties

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE 11/25/15 SIGNATURE OF ATTORNEY OF RECORD

Mark Levine

ADMITTED TO PRACTICE IN THIS DISTRICT
[] NO

[X] YES (DATE ADMITTED Mo. May Yr. 1982)
Attorney Bar Code # ML 0180

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

RIDER A

Full caption of named Plaintiff:

FRAN KOSKY ROTH IRA on Behalf of Nominal Defendants VEREIT INC., formally known as AMERICAN CAPITAL PROPERTIES, INC.,

RIDER B

Full list of named Defendants:

GLENN J. RUFRANO, BRUCE FRANK, HUGH R. FRATER, MARK S. ORDAN,
JULIE G. RICHARDSON, NICHOLAS S. SCHORSH, DAVID KAY, BRIAN BLOCK,
LISA BEESON and GRANT THORNTON, LLP,

Defendants,

-and-

VEREIT CAPITAL, INC. formerly known as AMERICAN REALTY CAPITAL
PROPERTIES, INC.

Nominal Defendant.

RIDER C

Defendants GLENN J. RUFRANO, BRUCE FRANK, HUGH R. FRATER, MARK S.
ORDAN and JULIE G. RICHARDSON
c/o Vereit, Inc
2325 East Camelback Road
Suite 1100
Phoenix, AZ 85016
Maricopa County

Defendant NICHOLAS S. SCHORSCH
c/o Audra Jan Soloway, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
New York County

Defendant DAVID KAY
c/o Beth Mueller, Esq.
Kirkland & Ellis
655 Fifteenth Street, NW
Suite 1200
Washington, DC 20005

Defendant BRIAN BLOCK
c/o Lara Romansic, Esq.
Steptoe & Johnson, LLP
750 Seventh Avenue
Suite 1900
New York, NY 10019
New York County

Defendant LISA BEESON
c/o Alexandra Rebecca Clark, Esq.
Petrillo Klein & Boxer LLP
655 Third Avenue, 22nd Floor
New York, NY 10017
New York County

Defendant GRANT THORNTON, LLP
757 Third Avenue
New York, NY 10017
New York County

Nominal Defendant VEREIT, INC., formerly known as AMERICAN REALTY
CAPITAL PROPERTIES, INC.
2325 East Camelback Road
Suite 1100
Phoenix, AZ 85016
Maricopa County